

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

WATER DAMAGE RECOVERY	§	PLAINTIFF
	§	
v.	§	CAUSE NO. 1:07CV93LG-JMR
	§	
DR. DONALD BELL and	§	
DEBORAH BELL	§	DEFENDANTS

**ORDER DENYING DEFENDANTS' MOTION TO
DISMISS AND GRANTING MOTION TO STAY**

THE MATTER BEFORE THE COURT is the Motion to Dismiss Or In The Alternative To Stay [3] filed by Defendants Donald and Deborah Bell. The Defendants contend that Plaintiff may not properly bring this suit in Mississippi because Plaintiff is a foreign corporation not authorized to do business in the State of Mississippi. Mississippi Code Annotated § 79-4-15.02(a) provides, "A foreign corporation transacting business in this state without a certificate of authority may not maintain a proceeding in any court in this state until it obtains a certificate of authority." *Cuba Timber Co., Inc. v. Boswell*, 339 F.Supp.2d 773, 775 (S.D. Miss. 2004).

The Plaintiff does not dispute that it is a foreign corporation and does not possess a certificate of authority, but Plaintiff shows that it has filed an Application for Certificate of Authority with the Mississippi Secretary of State. When Plaintiff obtains the applied-for certificate of authority, it may properly proceed with this cause of action. *Cuba Timber Co. Inc. v. Boswell*, 339 F.Supp.2d 773, 775 (S.D. Miss. 2004). The Court therefore finds that in light of Plaintiff's application for a Certificate of Authority, dismissal of this action on the grounds proposed by the Defendants is not warranted. However, the Plaintiff has not shown an exception to the statutory requirement of a certificate of authority, and the Court finds that the certificate is a necessary prerequisite to Plaintiff's maintenance of this action. Therefore, a stay shall be

imposed until such time as Plaintiff obtains the certificate of authority. MISS. CODE ANN. § 79-4-15.02(c); *Northfield Ins. Co. v. Odom Indus., Inc.*, 119 F.Supp.2d 631, 633 n.4 (S.D. Miss. 2000).

IT IS THEREFORE ORDERED AND ADJUDGED that the Defendants' Motion to Dismiss [3] is **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that this case is **STAYED** until Plaintiff is able to show that it has obtained a Certificate of Authority from the Mississippi Secretary of State.

SO ORDERED AND ADJUDGED this the 12th day of April, 2007.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE